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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,035	09/22/2003	David K. Johansen	62519-00003USPT	7867
30223	7590	08/16/2006		
JENKENS & GILCHRIST, P.C. 225 WEST WASHINGTON SUITE 2600 CHICAGO, IL 60606				
			EXAMINER EDMONDSON, LYNNE RENEE	
			ART UNIT 1725	PAPER NUMBER

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,035

Applicant(s)

JOHANSEN, DAVID K.

Examiner

Lynne Edmondson

Art Unit

1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-9,11-14 and 16-25 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 7-9,11-13,25 is/are allowed.
6) ☒ Claim(s) 1-3,5,6,14 and 16-24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-3, 5, 6 and 22 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 and 14-22 of copending Application No. 11/214660. Although the conflicting claims are not identical, they are not patentably distinct from each other because both teach a system for providing power to multiple ultrasonic probes using programmable logic devices, connectors for connecting the ultrasonic probes, relays for switching, the controller provided within an ultrasonic generator chassis and means for switching the power supply. However the '660 claims do not teach the connectors as jacks.

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ jacks as is convention in the art to facilitate connection in a simple and cost-effective manner.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. Claims 7-9, 11-13, 14 and 16-21 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 and 14-22 of copending Application No. 11/214660 in view of Peter (USPN 4746051). The '660 claims teach the invention essentially as claimed but does not disclose the signal generated from a voltage sensing circuit, a clock for time-based control, capability of time based control, and a relay coil driver circuit.

Peter teaches an ultrasonic welding control device comprising a programmable logic device (figure 6 and col 6 line 38-col 7 line 7), voltage sensing circuit (col 1 lines 20-26 and col 2 lines 52-60), a clock for time-based control, capability of time based control (col 3 lines 58-68), and a relay coil driver circuit col 4 lines 26-50).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ controller means comprising a voltage sensing circuit, a clock for time-based control, capability of time based control, and a relay coil driver circuit as is known in the art to facilitate fast, smooth switching in a controlled and reliable manner and thereby provide strong, consistent welds.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5, 6, 14 and 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Telly et al. (USPN 4549684).

Telly teaches a system for providing power to multiple ultrasonic welding probes from a single power supply using an automatic control system, a programmable logic component (col 3 line 9 – col 4 line 33) and relay coils (figure 3 and col 2 lines 5-23) for switching power between probes (col 6 lines 6-16) in a generator chassis (figure 1). The controller comprises means for determining time periods (col 8 lines 3-57) and relay coils (col 8 lines 58-67 and col 9 line 54 – col 10 line 23).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7-13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Telly et al. (USPN 4549684) in view of Peter (USPN 4746051).

Telly teaches a system for providing power to multiple ultrasonic welding probes from a single power supply using an automatic control system, a programmable logic component (col 3 line 9 – col 4 line 33) and relay coils (figure 3 and col 2 lines 5-23) for switching power between probes (col 6 lines 6-16) in a generator chassis (figure 1). The controller comprises means for determining time periods (col 8 lines 3-57) and relay coils (col 8 lines 58-67 and col 9 line 54 – col 10 line 23). However there is no disclosure of a voltage sensing circuit or clock.

Peter teaches an ultrasonic welding control device comprising a programmable logic device (figure 6 and col 6 line 38-col 7 line 7), voltage sensing circuit (col 1 lines 20-26 and col 2 lines 52-60), a clock for time-based control, capability of time based control (col 3 lines 58-68), and a relay coil driver circuit col 4 lines 26-50).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ controller means comprising a voltage sensing circuit for producing a signal and a clock for time-based control as is known in the art to facilitate fast, smooth switching in a controlled and reliable manner and thereby provide strong, consistent welds.

Response to Arguments

8. Regarding the obviousness double patenting rejection, no terminal disclaimer has been filed.

Therefore the obviousness double patenting rejection of claims 1-3, 5, 6 and 22 as unpatentable over claims 1-9 and 14-22 of copending Application No. 11/214660 stands and includes new claims 23-25.

Therefore the obviousness double patenting rejection of claims 7-9, 11-13, 14 and 16-21 as unpatentable over claims 1-9 and 14-22 of copending Application No. 11/214660 in view of Peter (USPN 4746051) stands and includes new claims 23-25.

9. In response to applicant's argument that Telly does not disclose the method, particularly detecting the power status of a first and second probe and generating first and second status signals or waiting for the horns to stop vibrating or waiting until the probe has proceeded through the ring-down period, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Telly teaches means for detecting power status and generating a signal in col 8 lines 3-57 which describes the control system.

Therefore the 102 rejection of claims 1-3, 5, 6, 14 and 18-22 as anticipated by Telly stands and includes new claims 23 and 24.

10. In response to applicant's argument that Peter does not disclose a switching method, it is noted that the rejection is directed toward apparatus claims. The switch means is disclosed in the primary reference (Telly).

Therefore the 103 rejection of claims 16 and 17 as obvious over Telly in view of Peter stands.

Allowable Subject Matter

11. Claims 7-9, 11-13 and 25 allowed.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Scarpa (USPN 2995689, controller, relay coils, voltage sensing circuit), Fujieda et al. (USPN 3885902), Landes (USPN 4696425, controller, voltage sensing circuit), Vala et al. (USPN 6251203 B1, multiple power supplies), Stumpf (USPN 4401501, multiple power supplies) and Jones (USPN 3029766).

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

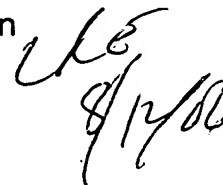
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Edmondson whose telephone number is (571) 272-1172. The examiner can normally be reached on Monday through Thursday from 6:30 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lynne Edmondson
Primary Examiner
Art Unit 1725

Handwritten signature of Lynne Edmondson in black ink, consisting of stylized initials and a date '8/12/06'.

LRE